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ATTORNEY DOCKET NO. YAMA:058

REMARKS

Claims 1-11 remain pending in this application for which applicant seeks reconsideration.

Amendment

Independent claims 1, 2, and 7 have been amended to clarify that the music playing data file comprises MIDI data, as previously set forth in claims 8 and 9. Claims 8, 9, and 11 have been amended to reflect the changes made to the independent claims. No new matter has been introduced.

Art Rejection

Claims 1-3 and 7-11 have been rejected under 35 U.S.C. § 103(a) as unpatentable over Haruki (USPGP 2002/0126874) in view of Eller (USP 5,889,860), and claims 4-6 have been rejected under § 103(a) as unpatentable over Haruki in view of Eller and Oishi (USP 6,792,539). Applicant traverses these rejections at least to the extent that none of these references would have disclosed or taught extracting MIDI data, as previously set forth in claims 8 and 9.

Applicant previously argued that Eller would not have disclosed or taught extracting a music playing data file from a given music work resource, and that Eller would have merely taught **encrypting the entire music data file without extracting any music data file**, transmitting the encrypted music data file to a client, such as a PC, which decrypts the music data file on the fly, and subsequently purging the decrypted data from the memory of the client so that no decrypted data is saved. Applicant thus argued that Eller would not have disclosed or taught encrypting any extracted data before or after decrypting the received encrypted file at the client side.

The examiner now relies upon Haruki for the proposition that extracting a music playing data file from a given music work resource and compressing and storing the same would have been known. The examiner essentially asserts that it would have been obvious for Haruki to encrypt the compressed music file before storing it in view of Eller. Applicant disagrees with the examiner's assessment because 1) Eller still would not have taught encrypting any extracted data and 2) neither Haruki nor Eller nor Oishi would have disclosed or taught extracting MIDI data. While Eller discloses encrypting a music score data file, such as MIDI data, it does not disclose extracting such data. In contrast to the examiner's assertion, Haruki merely discloses "ripping" and compressing audio files (such as PCM, MP3 file), not extracting any music playing data file, such as MIDI. Indeed, all the paragraphs of Haruki mentioned by the examiner fail to

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mention any music playing data file such as MIDI. Note that the "musical data" mentioned in paragraph 27 for example refers to the ID tags (track name, artist, album name, etc.), which has nothing to do with the music performance data.

Oishi would not have alleviated Haruki's shortcomings noted above, even if the combination were deemed proper, as it discloses or teaches nothing about extracting a music playing data file such as MIDI.

Conclusion

Applicant submits that claims 1-11 patentably distinguish over the applied references and are in condition for allowance. Should the examiner have any issues concerning this reply or any other outstanding issues remaining in this application, applicant urges the examiner to contact the undersigned to expedite prosecution.

Respectfully submitted,

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